

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

<hr/>)	Chapter 11
In re:)	
)	
)	Case No. 15-32919-KRH
HEALTH DIAGNOSTIC LABORATORY, INC., et al.,)	
)	Jointly Administered
)	
Debtors.¹)	
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**LIQUIDATING TRUSTEE’S MOTION FOR ENTRY OF ORDER TO VACATE
ORDER COMPELLING FIDELITY INVESTMENTS TO LIQUIDATE AND
TURNOVER PROCEEDS OF QUEST 401(K) TO THE LIQUIDATING TRUSTEE**

Richard Arrowsmith, in his capacity as the Liquidating Trustee (the “Liquidating Trustee”) of the HDL Liquidating Trust (the “Trust”), files the *Liquidating Trustee’s Motion for Entry of Order to Vacate the Order Compelling Fidelity to Liquidate and Turnover Proceeds of Quest 401(k)* (the “Motion”) pursuant to Rule 60 of the Federal Rules of Civil Procedure as made applicable by Rule 9024 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”),

¹ The Debtors in these Bankruptcy Cases, along with the last four digits of each Debtor’s federal tax identification number, are: Health Diagnostic Laboratory, Inc. (0119), Central Medical Laboratory, LLC (2728), and Integrated Health Leaders, LLC (2434) (the “Debtors”).

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*Counsel for Richard Arrowsmith, Liquidating
Trustee of the HDL Liquidating Trust*

seeking entry of an order (the “Order”) substantially in the form attached hereto as **Exhibit A**, to vacate the *Order Compelling Fidelity to Liquidate and Turnover Proceeds of Quest 401(k) to the Liquidating Trustee* (the “Order to Compel”) [ECF No. 5999]. In support of this Motion, the Liquidating Trustee states as follows:

JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the Eastern District of Virginia (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. sections 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. section 157(b)(2).

2. Venue is proper in this district pursuant to 28 U.S.C. sections 1408 and 1409.

3. The predicate for the relief requested herein is sections 105(a) and 542 of the Bankruptcy Code.

FACTUAL AND PROCEDURAL BACKGROUND

4. On February 5, 2025, the Liquidating Trustee filed a motion (the “Turnover Motion”), seeking an order to compel Fidelity Investments (“Fidelity”) to liquidate and turnover proceeds of a certain 401(k) account in the name of Floyd Calhoun Dent, III, and currently sponsored by Quest Diagnostics Clinical Laboratories, Inc. and administered by Fidelity. On the same day the Liquidating Trustee filed the Turnover Motion, the Liquidating Trustee also submitted to the Court the Order to Compel.

5. Subsequently, Fidelity, through counsel, reached an agreement with the Liquidating Trustee resolving the Turnover Motion. The result of this agreement was memorialized in the *Consent Order Regarding Fidelity Investments’ Facilitation of Mr. Dent’s Quest 401(k) Account Distribution* (the “Consent Order”), which the Court entered on March 13, 2025 [ECF No. 5998].

6. On the same day, the Court also entered the Order to Compel. There are inconsistencies between the Order to Compel and the Consent Order (collectively, the “Orders”). Accordingly, to avoid any confusion between the Orders and ensure the Consent Order is the controlling Order, cause exists to vacate the Order to Compel.

RELIEF REQUESTED

7. By this Motion, the Liquidating Trustee seeks entry of the Order pursuant to Rule 9024 of the Bankruptcy Rules, seeking an order to vacate the Order to Compel.

BASIS FOR RELIEF REQUESTED

8. Rule 60(a) of the Federal Rules of Civil Procedure as made applicable by Rule 9024 of the Bankruptcy Rules states that a court may correct a mistake arising from oversight or omission whenever one is found in an order. Further Rule 60(b) provides that a court may relieve a party from an order for “(1) mistake, inadvertence, surprise, or excusable neglect . . . or (6) any other reason that justifies relief.”

9. Here, cause exists to vacate the Order to Compel as it was entered in error due to the oversight of counsel for the Liquidating Trustee. Upon submission of the Consent Order, counsel for the Liquidating Trustee failed to inform the Court that the Consent Order was intended to replace the pending Order to Compel that was previously submitted for entry. In addition, ensuring the terms of the Consent Order control the agreement reached between the Liquidating Trustee and Fidelity, the undersigned submits constitutes sufficient justification for the Court to vacate the Order to Compel.

10. Fidelity consents to the relief sought in this Motion.

WAIVER OF LOCAL RULE 9013-1(F)

11. The Liquidating Trustee respectfully requests that this Court treat this Motion as a written memorandum of points and authorities and waive any requirement that the Motion be accompanied by a written memorandum of points and authorities as described in Local Bankruptcy Rule 9013-1(F) of the Local Rules of this Court.

NOTICE

12. Notice of this Motion is being provided to the Core Parties and the 2002 List in accordance with the Case Management Procedures and to Fidelity. Due to the nature of this request, the Liquidating Trustee submits that no further notice is required.

WHEREFORE, the Liquidating Trustee respectfully requests that the Court enter the Order, substantially in the form attached as **Exhibit A**, and grant such other and further relief as the Court may deem proper.

Dated: March 18, 2025

Respectfully submitted,

/s/ Robert S. Westermann

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*Counsel for Richard Arrowsmith, Liquidating
Trustee of the HDL Liquidating Trust*

CERTIFICATE OF SERVICE

I hereby certify that on March 18, 2025, I electronically filed the foregoing Motion with the Clerk of Court using the CM/ECF system, which then sent a notification of such filing to all counsel of record registered with the CM/ECF system. I also certify, that on March 18, 2025, a true and correct copy of the foregoing Motion was served via email upon the following:

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Counsel for Fidelity

Robert S. Westermann
Counsel

Exhibit A

Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

<hr/>)	
In re:)	
)	Case No. 15-32919 (KRH)
HEALTH DIAGNOSTIC)	Chapter 11
LABORATORY, INC., et al.,)	
)	
Debtors.²)	
<hr/>)	

**ORDER VACATING ORDER COMPELLING
FIDELITY INVESTMENTS TO LIQUIDATE AND TURNOVER
PROCEEDS OF QUEST 401(K) TO THE LIQUIDATING TRUSTEE**

Upon the *Liquidating Trustee's Motion for Entry of to Vacate the Order Compelling Fidelity to Liquidate and Turnover Proceeds of Quest 401(k)* (the "Motion")³ [ECF No. ____]; and it appearing that the relief requested is in the best interests of the Liquidating Trustee and all other parties in interest; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and notice of the Motion having been adequate and appropriate under the circumstances; and sufficient cause appearing therefor, it is hereby **ORDERED, ADJUDGED, and DECREED** as follows:

1. The Motion is **GRANTED**.
2. The Order to Compel entered on March 13, 2025 [ECF No. 5999] is hereby vacated ab initio.

² The Debtors, along with the last four digits of their federal tax identification number, are Health Diagnostic Laboratory, Inc. (0119), Central Medical Laboratory, LLC (2728), and Integrated Health Leaders, LLC (2434) (referred to herein collectively as "HDL").

³ All capitalized terms not defined herein shall have the meaning ascribed to them in the Motion.

3. Notwithstanding any Federal Rule of Bankruptcy Procedure to the contrary, this Order shall be immediately effective and enforceable upon its entry, and any applicable stay of this Order is waived.

4. This Court retains jurisdiction with respect to any of the terms contained in this Order.

Dated: _____
Richmond, Virginia

UNITED STATES BANKRUPTCY JUDGE

WE ASK FOR THIS:

/s/ Robert S. Westermann
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SEEN AND AGREED:

/s/

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Counsel for Fidelity

**CERTIFICATION OF ENDORSEMENT
UNDER LOCAL BANKRUPTCY RULE 9022-1(C)**

Pursuant to Local Bankruptcy Rule 9002-1(C), I hereby certify that the foregoing proposed order has been endorsed by or served upon all necessary parties.

/s/ Robert S. Westermann